

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: )  
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Luc GOURLAOUEN et al. ) Group Art Unit: 1611  
 )  
Application No.: 10/814,428 ) Examiner: FRAZIER, Barbara S.  
 )  
Filed: April 1, 2004 ) Confirmation No.: 5713  
 )  
For: COSMETIC DYE COMPOSITION WITH )  
A LIGHTENING EFFECT FOR HUMAN )  
KERATIN MATERIALS, COMPRISING )  
AT LEAST ONE FLUORESCENT DYE )  
AND AT LEAST ONE AMINOSILICONE, )  
AND PROCESS OF DYEING )  
 )

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(c)**

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(c), Applicant brings to the attention of the Examiner the documents on the attached listing. This Information Disclosure Statement is being filed after the events recited in Section 1.97(b) but, to the undersigned's knowledge, before the mailing date of either a Final action, Quayle action, or a Notice of Allowance. Under the provisions of 37 C.F.R. § 1.97(c), this Information Disclosure Statement is accompanied by a fee of \$180.00 as specified by Section 1.17(p).

Copies of the listed foreign and non-patent literature documents are attached.

Copies of the U.S. patents, patent application publications, co-pending applications and

respective office actions are not enclosed as they are available on the Imaged File Wrapper of PAIR.

The United States Court of Appeals for the Federal Circuit held in *Dayco Products, Inc. v. Total Containment, Inc.*, 329 F.3d 1358, 66 U.S.P.Q.2d 1801 (Fed. Cir. 2003) that an "adverse decision" by another examiner may meet the materiality standard under the amended Rule 56, and thus, Applicant should disclose prior rejections of "substantially similar claim[s]" to the Office. Accordingly, although Applicant is not representing that the office actions in the co-pending applications are material to the present application and is not admitting that any of the other claims are substantially similar, out of an abundance of caution, Applicant has listed substantive office actions from co-pending applications on the attached form PTO-SB-08 and has enclosed copies of the documents as well. Applicant has not included copies of the office actions from co-pending applications.

Applicant respectfully requests that the Examiner consider the listed documents and indicate that they were considered by making appropriate notations on the attached form.

With respect to the non-English language documents, Applicant submits the following remarks:

1. **DE 101 17 336** - An abstract of the disclosure of this document can be found in the English language Derwent Abstract submitted herewith, and listed on the attached form PTO/SB/08.

2. **DE 196 28 357** - An abstract of the disclosure of this document can be found in the English language Derwent Abstract submitted herewith, and listed on the attached form PTO/SB/08.

3. **DE 199 36 911** - This document is believed to be related to U.S. Patent No. 6,770,102, listed on the attached form PTO/SB/08.

4. **DE 199 62 348** - An abstract of the disclosure of this document can be found in the English language Derwent Abstract submitted herewith, and listed on the attached form PTO/SB/08.

4. **FR 1 458 223** - This document is cited in the French Search Report for the priority document of Application No. 10/764,436, and was submitted in an Information Disclosure Statement filed January 27, 2004 in that case.

5. **FR 1 528 072** - This document is cited in the French Search Report for the priority document of Application No. 10/764,436, and was submitted in an Information Disclosure Statement filed January 27, 2004 in that case.

6. **FR 2 816 832** - An abstract of the disclosure of this document can be found in the English language Derwent Abstract submitted herewith, and listed on the attached form PTO/SB/08.

7. **FR 2 853 230** - An abstract of the disclosure of this document can be found in the English language Derwent Abstract submitted herewith, and listed on the attached form PTO/SB/08.

8. **WO 00/31154** - This document is believed to be related to U.S. Patent No. 6,822,039, which is listed on the attached form PTO/SB/08.

7. **WO 02/31060** - An English language abstract of this foreign language document can be found on the title page of this document.

8. **WO 02/50224** - An English language abstract of this foreign language document can be found on the title page of this document.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the listed documents are material or constitute "prior art." If the Examiner applies any of the documents as prior art against any claims in the application and Applicant determines that the cited document do not constitute "prior art" under United States law, Applicant reserves the right to present to the office the relevant facts and law regarding the appropriate status of such documents.

Applicant further reserves the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

If there is any fee due in connection with the filing of this Statement, please charge the fee to Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: June 5, 2009

By:   
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